

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

APPEAL FROM ORDER No 152 of 2001
with
CIVIL APPLICATION No 4844 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE K.S.JHAVERI

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

AHMEDABAD MUNICIPAL CORPORATION

Versus

SHANTILAL NAGARDAS RAJGURU

Appearance:

1. Appeal from Order No. 152 of 2001
MR HS MUNSHAW for Appellant No.
MR MB GANDHI for Respondent No. 1
MRS TRUSHA M GANDHI for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE K.S.JHAVERI

Date of decision: 21/02/2005

ORAL JUDGEMENT

1. The appellant has preferred this Appeal from
Order being aggrieved by the order dated 1st March, 2001

passed by the City Civil Court, Ahmedabad below Exh.6 and 18 in Civil Suit No. 4402 of 1996, whereby the learned Judge while allowing the application had directed the petitioner Corporation not to deduct sum of Rs.250=00 per month from the pension of the respondent by way of penalty as per order in departmental inquiry no. 131/95 till final disposal of the Suit and further to repay the amount deducted from the pension after 24-9-96, within six weeks.

2. I have heard the learned advocates for the respective parties and have perused the relevant record. The allegations against the original plaintiff is that he had tried to produce false birth certificate, for which he was chargesheeted on 29th November, 1993. In view of that departmental inquiry was initiated for the charges levelled against him and by order dated 16th July, 1996, it was ordered to deduct a sum of Rs.250=00 per month from the monthly pension of the respondent. Pursuant to the order of this Court dated 17th January, 2002, a representation was made by respondent original plaintiff whereby the petitioner Corporation has accepted the representation of the respondent plaintiff and from 1st July, 2002, it was ordered to pay full pension to the respondent.

3. However, looking to the facts and circumstances of the case, I am of the opinion, that merely an attempt may not be considered the act of misconduct more particularly, when the authorities itself have not allowed him to take any advantage of the alleged misconduct. However a consensus has been arrived at between the parties and on the basis of such consensus, it is directed that the respondent plaintiff shall withdraw all the proceedings pending before the Civil Court and Labour Court and further it is made clear that the order of punishment of Rs.250=00 is hereby set aside.

4. In the premises aforesaid, the Appeal from Order stands disposed of accordingly. Since, the petitioner Corporation has to incur the expenses for appearing before the Civil Court as well as this Court, the respondent plaintiff is directed to pay Rs.750=00 by way of costs to the petitioner Corporation.

CIVIL APPLICATION No 4844 of 2001 :

In view of the order passed in the main matter, no orders on this Civil Application. The Civil Application stands disposed of accordingly. Rule is

discharged. Interim relief if any, stands vacated.

[K.S. JHAVERI, J.]

/phalguni/